

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TIMOTHY A. HALE,	)	
	)	Civil Action No. 06 - 1530
Petitioner,	)	
	)	
v.	)	Judge David S. Cerccone /
	)	Magistrate Judge Lisa Pupo
FRANKLIN J. TENNIS, et al	)	Lenihan
	)	
Respondents.		

**ORDER**

On June 7, 2007, Petitioner filed a Motion for Leave to File a Second/Successive Petition (doc. no 23). On June 19, 2007, Petitioner filed a Motion for Stay and Abeyance (doc. no. 24) asking the Court to suspend action on his Petition for Writ of Habeas Corpus (doc. no. 10) until he has exhausted additional claims that he currently is pursuing in the Pennsylvania State Courts.


This Court does not have authority to grant Petitioner leave to file a Successive Petition. See 28 U.S.C. § 2244(b)(3)(A). Thus, Petitioner's Motion for Leave to File a Second/Successive Petition will be dismissed. Notwithstanding, the Court may stay this action until the Pennsylvania state courts complete their review of Petitioner's pending claims. In order to ensure that the Court timely adjudicates his Petition, the Petitioner will be required to file status reports in this Court concerning what activity, if any, has occurred in his pending state court proceedings, every sixty (60) days. Plaintiff's failure to

so notify the Court will result in adjudication of his Petition as filed. An appropriate order follows.

**IT IS ORDERED** this 21<sup>st</sup> day of June, 2007, that Petitioner's Motion for Leave to File a Second/Successive Petition (doc. no. 23) is **DISMISSED** as this Court is without authority to grant such relief.

**IT IS FURTHER ORDERED** that Petitioner's Motion for Stay and Abeyance (doc. no. 24) is **GRANTED** to the extent that the Court will defer ruling on the merits of Petitioner's Petition for Writ of Habeas Corpus until he has exhausted his additional claims in his currently pending state court action provided Petitioner provide this Court with status reports every sixty days concerning what activity, if any, has occurred in his pending state court action. Following exhaustion of Petitioner's currently pending state court action, the Court will determine whether it will require any further response by the Respondent concerning Petitioner's newly exhausted claims.

**IT IS FURTHER ORDERED** that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrate Judges. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.



Lisa Pupo Lenihan  
United States Magistrate Judge

cc: Counsel of record

Timothy A. Hale, FR - 0255  
S.C.I. Rockview, Box A  
Bellefonte, PA 16823